

Annual Leave Act (1977:480)

Amendments: up to and including 2009:1439

Annual leave benefits

Section 1 An employee is entitled to annual leave benefits in accordance with this Act. The annual leave benefits comprise annual leave, holiday pay and compensation in lieu of annual leave.

The Extended Annual Leave (Radiological Workers) Act (1963:115) contains special provisions concerning extended annual leave.

Agreement between employer and employee

Section 2 An agreement shall be invalid to the extent that it restricts an employee's rights under this Act. However, this shall not apply if this Act provides otherwise.

Section 2 a Deviations from Sections 5, 12, 12 b, 19-21 and 30 a may be made by agreements to the extent prescribed by those provisions.

Deviations from Sections 3, 3 a, 9, 11, second paragraph, 16-16 b, 22, 26, 26 a, 29, 29 a and 30 may be made by a collective bargaining agreement that has been concluded or approved by a central employees' organisation.

An employer who is bound by a collective bargaining agreement relating to matters referred to in the first and second paragraphs, may in such respects also apply the agreement to employees who are not members of the employees' organisation that is a party to the agreement. This applies provided that the employee is engaged in work that is referred to in the agreement and is not subject to any other applicable collective bargaining agreement.

Annual leave year and qualifying year

Section 3 The expression 'annual leave year' means the period from and including 1 April of one year up to and including 31 March of the following year. The corresponding period immediately preceding an annual leave year is referred to as the 'qualifying year'.

Annual leave and days of annual leave

Section 3 a Annual leave relates to whole days. The leave comprises individual days of annual leave or a period of days of annual leave, including free days. Leave begins and ends with a day of annual leave.

Saturdays and Sundays shall not be counted as days of annual leave except in cases covered by Section 9, third paragraph. Public holidays and Midsummer's Eve, Christmas Eve and New Year's Eve shall be treated in the same manner as Sundays.

Section 4 An employee shall be entitled to twenty-five days of annual leave in every annual leave year. If the employment commenced after 31 August during the annual leave year, the employee shall only be entitled to five days of annual leave.

While on annual leave, an employee shall receive holiday pay if he or she has earned such pay in accordance with Section 7.

Section 5 In the case of employment that is intended to last for not more than three months, and provided the work does not exceed that time, it may be agreed that annual leave will not be scheduled. In such a case, the employee shall be entitled to compensation in lieu of annual leave.

Section 6 An employee who changes employment shall be entitled to annual leave in the new employment only to the extent that the employee has not already taken such leave in the preceding employment.

Section 30 b contains provisions on transfer of annual leave benefits to new employment with the same employer.

Days of annual leave with pay

Section 7 The number of days of annual leave with pay is to be calculated in the following way. There shall be subtracted from the days that the employee has worked in the employer's service during the qualifying year (period of employment) those days when the employee has been completely absent from work without pay. Absence due to annual leave, lay offs or absence which, under Sections 17-17 b, affords an entitlement to holiday pay, such as for instance free days that fall during such periods of absence shall, however, be included in the period of employment. The difference is divided by the number of days during the qualifying year. This factor is multiplied by twenty-five. Where the calculation results in a fraction, it shall be rounded up to the nearest whole number.

Days of annual leave without pay

Section 8 An employee may waive an entitlement to annual leave without holiday pay.

An employee is subject to an obligation, if so requested, to inform his or her employer about his or her wishes regarding taking of annual leave without pay or the extent to which the employee wishes to waive the entitlement to such leave. This information need not be provided before the employer has given notice of how many days of annual leave without pay the employee is entitled to or can be estimated to be entitled to.

Where annual leave without pay has been approved on the basis of an employee's decision under the first paragraph, the employee may not subsequently decline to take the leave except in those cases referred to in Section 13.

Annual leave for employees who regularly work Saturday or Sunday

Section 9 An employee, who regularly works Saturdays or Sundays, or both, shall in the case of annual leave that covers at least five days be entitled to time off corresponding to the time of the weekend both during the period of annual leave and either immediately before or immediately after such leave. Where annual leave covers at least nineteen days, an employee shall be entitled to time off corresponding to the length of the weekend both immediately before and immediately after such time off, unless special reasons give cause to do otherwise.

Where, in cases covered by the first paragraph, an employee has time off of a corresponding duration on a day of the week which is not a Saturday or a Sunday, and this occurs during the period of annual leave, that weekday shall be counted as a day of annual leave.

If the period of annual leave is shorter than five days and if the employee is free on a Saturday or Sunday, which would otherwise have been a working day, that day shall be counted as a day of annual leave. A free day shall not be regarded as a day of annual leave.

Scheduling of annual leave dates

Section 10 The parties to a collective bargaining agreement relating to pay and general conditions of employment should, if the employee party so requests, also conclude a collective bargaining agreement relating to the employees' rights to co-determination in matters relating to the scheduling of annual leave dates. The provisions of the second and third paragraphs of this Section shall apply with respect to employees for whom no such agreement has been concluded.

The provisions relating to the employer's obligation to negotiate contained in Sections 11 and 13 of the Employment (Co-Determination in the Workplace) Act (1976:580) shall apply, correspondingly, for the purpose of scheduling the dates of such annual leave as referred to in Section 12. Where the employees are not represented by an employees' organisation which is authorised to negotiate or where any such employees' organisation is not willing to negotiate, the employer shall consult the employees with respect to the scheduling of their annual leave dates.

The employer shall consult the employees with respect to the scheduling of other annual leave dates than as referred to in Section 12 if negotiations with the employees' organisation have not taken place.

Section 11 Where no agreement can be reached with respect to the scheduling of the annual leave dates, the employer shall determine how those dates are to be scheduled, unless otherwise agreed.

Where a decision concerning the scheduling of annual leave dates has been scheduled in some other way than by agreement with the employee or the employee's representative, the employer shall notify the employee of the decision. Notification shall be given at least two months prior to the commencement of leave. Notification may be given at a

later time if there are special reasons but, if possible, at least one month prior to the commencement of leave.

Section 12 Unless otherwise agreed, annual leave dates shall be scheduled so that the employees have at least four weeks' annual leave during the period June to August. The leave period may be scheduled for some other time, even in the absence of agreement, if there are special reasons.

Section 12 a Annual leave dates shall be scheduled so that employees with a lower level of occupation than full time or with irregular working hours get equally long leave as an employee who works full time or an employee with regular working hours.

Section 12 b Of the days of annual leave scheduled during a particular annual leave year, days of annual leave with pay shall be scheduled first, unless otherwise agreed.

Annual leave in the case of lay off

Section 13 Where the employer decides to lay off an employee and the employee had no reason to expect that he or she would be laid off when information was given pursuant Section 8, the employee shall be entitled to decline any approved annual leave without pay to the extent that it coincides with the period of the lay off. The foregoing shall only apply if the employee informs the employer at least two weeks before the commencement of the leave. Where the employee is not informed of the lay off until a later time, the employee shall be entitled to decline to take the leave by giving immediate notice to that effect to the employer. Where the annual leave has already commenced, it shall cease upon expiry of the day on which the employer was notified.

Annual leave in conjunction with notice of termination and illness, etc.

Section 14 Annual leave dates shall not, except with the employee's consent, be scheduled to coincide with a period of notice of termination.

In the event that the period of notice, if notice of termination is issued by the employer, would coincide either wholly or in part with a period of annual leave for which approval has already been given and the termination is due to circumstances not attributable to the employee personally, the annual leave dates shall to that extent be cancelled, if the employee so requests.

The first and second paragraphs of this Section shall not apply insofar as the period of notice of termination exceeds six months.

Section 15 Where one or more days on which an employee is unfit for work on account of sickness, or occupational injury or one or more days that are credited for purposes of holiday pay under Sections 17-17 b, falls during a period of annual leave, such days shall not be counted as days of annual leave provided the employee makes a requests to that effect without delay. In such a case, days of annual leave that remain to be taken shall be scheduled consecutively, unless the employee otherwise agrees.

Calculation of holiday pay

Section 16 Holiday pay for an employee whose pay is determined per week or month shall be calculated in accordance with Section 16 a, unless otherwise stated in the second paragraph or the employer chooses to calculate holiday pay in accordance with Section 16 b.

Holiday pay is calculated in accordance with Section 16 b for an employee who has

1. pay that is not determined per week or month,
2. pay that regularly comprises a fixed and variable component if the variable component may be estimated to amount to at least ten per cent of the aggregate pay during the annual leave year, or
3. a level of occupation that has varied during the qualifying year, or who has
4. a changed level of occupation between the qualifying year and the time of the annual leave, or
4. been absent during the qualifying year for reasons that do not afford an entitlement to holiday pay according to Sections 17–17 b, though not if the absence has continued at the same level throughout the entire qualifying year and is continuing at that level at the time of the annual leave.

Sections 24 and 25 contain special provisions on certain benefits when calculating holiday pay.

Holiday pay according to the same-pay rule

Section 16 a Holiday pay according to the same-pay rule is the weekly or monthly pay at the time of the annual leave in question, any fixed pay supplements and also a holiday supplement applicable.

The holiday supplement for each day of annual leave with pay is for weekly-paid employees 1.82 per cent of the weekly pay and for monthly-paid employees 0.43 per cent of the monthly pay. If an employee has fixed pay supplements, the weekly and monthly pay respectively shall be increased by these supplements before calculating the holiday supplement.

If the employee also has variable pay components, the holiday pay for these pay components is twelve per cent of the employee's aggregate variable pay that fell due during the annual leave year. .

Holiday pay according to the percentage rule

Section 16 b Holiday pay according to the percentage rule comprises twelve per cent of the employee's pay that has become due regarding employment during the qualifying year.

The following shall not be included in the total pay:

1. holiday pay,
2. compensation for days when the employee has had whole or partial absence credited for the purpose of holiday pay in accordance with Sections 17–17 b, or
3. pay received in respect of a lay off connected with the closing of the undertaking effected for the purpose of enabling the employees to take their annual leave simultaneously when there is no entitlement to holiday pay for the same period.

For each such day of absence as referred to in the second paragraph, item 2, the total pay shall

instead be increased by an amount corresponding to the income that the employee would have had if work had instead been performed of a normal scope on behalf of the employer. 'Normal scope' means the employee's ordinary working hours measure. If it is not possible to determine this amount, it should be estimated to be the income that may be assumed would have been paid if the employee had during the period of absence worked on behalf of the employer. Lag (2009:1439)

Absence credited for the purpose of holiday pay

Section 17 Absence from work shall be credited for the purpose of holiday pay as regards leave on account of sickness, provided it does not exceed 180 days during the course of the qualifying year or if the absence is attributable to an occupational injury. Such period of absence shall also include days during the period in which the employee would not have carried out work.

The employee's entitlement to holiday pay ceases when the employee has been wholly or partly absent from work during the course of a whole qualifying year without interruption for more than fourteen consecutive days.

Section 17 a Absence from work shall be credited for the purpose of holiday pay as regards leave in accordance with the Parental Leave Act (1995:584), concerning

1. leave in accordance with Section 8, first paragraph of the said Act, provided the absence during the course of the qualifying year does not exceed 120 days or, for a single parent, 180 days,
2. the period for which a pregnancy cash benefit is payable under Chapter 3, Section 9 of the National Insurance Act (1962:381), or
3. the period for which parental cash benefit is paid as a result of the birth of a child or adoption under Chapter 4, Sections 3 and 5 of the National Insurance Act, if the absence does not exceed 120 days for each child or for the birth of several children or, for a single parent, 180 days.

The period of absence referred to in the first paragraph shall also include days during the period in which the employee would not have carried out work.

Section 17 b Absence from work shall be credited for the purpose of holiday pay as regards

1. leave on account of a risk of contracting a contagious disease,
 - a) if the employee is entitled to compensation under the Contagious Diseases Compensation Act (1989:225), and
 - b) if the absence does not exceed 180 days during the course of the qualifying year,
2. leave in accordance with the Leave Compensation and Leave for Care of Relatives Act (1988:1465), if the absence does not exceed 45 days during the course of the qualifying year,
3. educational leave that to a significant extent relates to trade union matters or matters connected with trade union activity or compensation to participants in sign-language training for certain parents (TUFF), provided the absence does not exceed 180 days

during the course of the qualifying year and the leave does not confer a right to holiday pay under any other Act,

4. leave on account of basic training performed for not more than 60 days or refresher training under the National Defence Service Act (1994:1809), provided the absence does not exceed 60 days during the course of the qualifying year, or
5. leave in accordance with the Swedish Language Education Act (1986:163).

The period of absence referred to in the first paragraph shall also include days during the period in which the employee would not have carried out work.

Entitlement to carry over annual leave

Section 18 An employee who is entitled, during the course of an annual leave year, to more than twenty days of annual leave with pay, may carry over one or more remaining days to a subsequent annual leave year.

Unless otherwise provided in Section 20, second paragraph, a day of annual leave which has been carried over shall be scheduled within five years of the end of the annual leave year from which it was carried over.

No days of annual leave may be carried over in the course of an annual leave year in which an employee claims days of annual leave that have been carried over from a previous year.

Section 19 Where an employee wishes to carry over days of annual leave or take days of annual leave that have been carried over in conjunction with the ordinary annual leave, the employer shall be notified in conjunction with the decision scheduling the annual leave dates for the year. Such notice need not be given until the employer has given notice of how many days of annual leave with pay the employee is entitled to take or can be estimated to be entitled to take. An employee who wishes to take days of annual leave that have been carried over otherwise than in conjunction with ordinary annual leave shall give at least two months advance notice to his employer to that effect.

The first paragraph of this Section shall apply only to the extent that no other agreement has been reached.

Scheduling of annual leave days carried over

Section 20 Days of annual leave that have been carried over shall be allocated to the annual leave year of the employee's choice. However, the foregoing shall not apply if otherwise agreed, or if there are special reasons why such days of annual leave should not be allocated to that year.

Where an employee has carried over any days of annual leave with the intention of taking such leave during the fifth year after the annual leave year from which they were carried over, and if the taking of such leave would cause appreciable inconvenience, agreement may be reached for these days of annual leave to be scheduled during the sixth year. (2009:1439)

Section 21 Where an employee wishes to take at least five consecutive days of annual leave that have been carried over, these days and the whole of the annual leave for the annual leave year shall be granted consecutively, unless otherwise agreed.

Holiday pay for days of annual leave carried over

Section 22 Holiday pay for days of annual leave carried over shall be calculated in accordance with the rules contained in Sections 16-16 b. All days of annual leave carried over that are scheduled shall be considered as earned during the immediately preceding qualifying year.

Section 23 Repealed by Act

Special provisions as to holiday pay

Section 24 No account shall be taken, for the purpose of calculating holiday pay, of benefits in the form of free accommodation, or of pay benefits that are intended to represent compensation for special expenses.

Section 25 An employee who receives free board in the employer's household shall be entitled to reasonable compensation for food during the days of annual leave on which he has not, to any extent, availed himself of such benefits.

Payment of holiday pay

Section 26 Employers shall pay each employee's holiday pay in conjunction with the employee's annual leave.

Holiday pay for variable pay components as referred to in Section 16 a, third paragraph, shall be paid not later than one month after the end of the annual leave year.

Holiday pay for annual leave that could not be scheduled

Section 26 a Days of annual leave with pay that have not been carried over according to Section 18 and which could not be scheduled during the annual leave year, are compensated by holiday pay. Such holiday pay is determined in accordance with the principles for calculating holiday pay contained in Sections 16–16 b, and shall be paid not later than one month after the end of the annual leave year. However, holiday pay is only paid for the number of days that together with the number of days that have been earned during the qualifying year exceed twenty-five.

Section 27 Repealed by Act

Compensation in lieu of annual leave

Section 28 If employment ceases before an employee has received the holiday pay that has been earned, the employee shall instead receive compensation in lieu of annual leave. This does not apply if otherwise provided by Section 30 b or 31.

The foregoing shall apply, correspondingly, where an employee's conditions of employment are altered in such a way that annual leave with pay shall be scheduled already during the qualifying year. In such circumstances, the provisions on compensation in lieu of annual leave shall be applied as if the employment had ceased on the date of commencement of the new conditions of employment.

Section 5 contains special provisions as to compensation in lieu of annual leave relating to employees employed for work that is intended to last for not more than three months.

Section 29 Compensation in lieu of annual leave shall be determined in accordance with the rules for calculating holiday pay.

In the case of days of annual leave that have been carried over, compensation in lieu of annual leave shall be calculated as if they had been taken during the annual leave year in which the employment ceased.

Section 29 a Where an employee has received holiday pay in advance, the compensation in lieu of annual leave shall be reduced by the amount received. The foregoing shall not apply, however, if the holiday pay received in advance was paid more than five years before the cessation of the employment or where the employment ceased on account of:

1. the employee's sickness,
2. the circumstances referred to in Section 4, third paragraph of the Employment Protection Act (1982:80), or
3. notice of termination issued by the employer on the basis of circumstances that are not attributable to the employee personally, except where the notice is issued in conjunction with the bankruptcy of a company.

Payment of compensation in lieu of annual leave

Section 30 Compensation in lieu of annual leave shall be paid to the employee without unreasonable delay, and in any event within one month after the employment ceases.

If it is not possible to calculate compensation in lieu of annual leave within one month after the employment ceases, such compensation shall be paid within a week after the impediment to calculating the compensation is overcome.

Uncontrolled employees

Section 30 a If an employee performs work under such circumstances that it cannot be deemed to be the task of the employer to monitor how the work is arranged, a contract may be concluded for a deviation from the provisions on scheduling of annual leave referred to in Sections 9-15. Such deviations may not lead to a restriction to take out twenty-five days of annual leave, or such lower number of days of annual leave as the employee is entitled to each annual leave year. .

New employment in conjunction with preceding employment

Section 30 b If it becomes apparent before an employment has ceased that a new employment between the parties will commence in close conjunction with the preceding employment, the employments shall as regards annual leave be counted as one single employment.

The first paragraph is only applied where

1. the annual leave earned that has not already been scheduled,
2. compensation in lieu of annual leave that has not already been paid, and
3. the employee has declared that the holiday benefits earned are to be transferred to the new employment. .

Transfer to a new employer

Section 31 An employee's rights under this Act shall not be affected by the transfer of an undertaking, a business or a part of a business being transferred to a new employer by a transfer covered by Section 6 b of the Employment Protection Act (1982:80). Nor shall the employee's rights be affected by an undertaking or any part of an undertaking being transferred to a new employer in conjunction with bankruptcy.

Where an employee transfers to a new employer within the same group, the employee shall, as regards annual leave, have the same rights in the new employment as in the previous employment. This is conditional, however, upon the employee not receiving compensation in lieu of annual leave from the previous employer and that the employee notifies both the previous employer and the new employer, not more than one month after the employment ceases, of his or her desire to transfer the annual leave benefits earned to his new employment.

In cases covered by the second paragraph of this Section, the new employer shall be entitled to receive from the previous employer an amount corresponding to the compensation in lieu of annual leave which the previous employer would otherwise have been obliged to pay the employee.

Damages

Section 32 An employer who breaches this Act shall, in addition to any holiday pay or compensation in lieu of annual leave to which the employee is entitled, compensate the employee for any damage incurred.

For the purpose of determining whether and to what extent damage has been incurred, account shall also be taken of the employee's interest in obtaining annual leave and of other circumstances of more than purely financial importance.

The amount of the damages may be reduced in whole or in part if it is reasonable to do so, having regard to the scope of the damage incurred or other circumstances.

Limitation of actions

Section 33 An employee wishing to claim holiday pay, compensation in lieu of annual leave or damages under this Act shall institute proceedings within two years, calculated from the end of the annual leave year in which, in accordance with this Act, the employee should have received the benefits to which the claim relates. Where the employee fails to do so, his or her right to institute proceedings lapses.

Judicial procedure

Section 34 Cases relating to the application of this Act shall be dealt with in accordance with the provisions of the Labour Disputes (Judicial Procedure) Act (1974:371).

Transitional provisions

2009:1439

1. This Act enters into force on 1 April 2010
2. The new provisions contained in Section 17 will be applied for the first time in the case of periods of absence commencing after entry into force. However, as regards persons who, at the time the Act enters into force, are absent from work part time owing to illness or occupational injury, the new provisions shall apply already from the entry into force.